

of trial and it is of great expense to the litigant and the Court.

We have obviated that problem by including in Amendment No. 13 the language that the Court of Appeals by rule shall provide for reasonable regulation of this provision.

Mr. Chairman, I would like to have unanimous consent. Judge Henderson raised the valid point this does not reflect the concurrent power theory of the judiciary article and I would like to have unanimous consent by the General Assembly.

THE CHAIRMAN: I do not think you mean that because grammatically it would then say the Court of Appeals by act of the General Assembly.

DELEGATE WILLONER: The Court of Appeals by rule or the General Assembly by law.

THE CHAIRMAN: The request is that the amendment be modified by adding at the end of line 11 the words "or the General Assembly by law".

Is there any objection?

The Chair hears none. The amendment will be considered as modified.

Delegate Willoner.

DELEGATE WILLONER: It seems to me the issue before the Convention is whether or not the right of removal will continue to exist. The history of those cases where the question was left to the discretion of the court have unanimously been reversed.

I think an example of how far the court will go on this question is the Sam Shepherd case which of course is not a Maryland case. I could not conceive it as being that bad in Maryland. The case was being tried in the press and the court refused to remove the case.

It is the same as in the Ruby case. Maybe there was not any place to remove it, but removal was requested and the Court in Texas refused to remove it.

Unless this right will be left in this constitution, this right will end and the question today is whether the right will continue. This right as proposed in this amendment has the protection that the Court of Appeals and the General Assembly may regulate it. It could expand the right.

The legislature and the court have been prohibited from passing any kind of regulation of this right. This will end the problem

and now it seems to me that the question before you is this. Should this right continue? If the decision of this body is that it should not be left within the constitution, it is my feeling that there will be no right of a removal.

May I say this applies only to civil cases and goes to the question of jury trials and not to the question of the removal or prejudice of judges.

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment?

Delegate Macdonald.

DELEGATE MACDONALD: Mr. Chairman, I would like to offer amendment W as a substitute amendment.

THE CHAIRMAN: Delegate Macdonald, I think any person desiring to speak in opposition may do so before you offer your amendment.

Delegate Henderson, do you desire to speak in opposition?

DELEGATE HENDERSON: Yes. I suggest that Delegate Willoner is not correct, unless this right is put in the constitution. It could not be regulated by the court or the General Assembly.

We are dealing here with a mere matter of practice and procedure and of course if the man cannot have a fair and impartial trial if he is able to prove that he has a constitutional right to a removal. So we are not leaving the matter in limbo. We are merely leaving its regulation to the Court of Appeals or the General Assembly, where it belongs.

I suggest that there is another problem in connection with this which has not yet been mentioned. We have adopted a system under which we have one superior court and one district court in the whole State. We would have a unified judicial system and the terms of the old absolute right of removal from one jurisdiction to another can no longer be worked out. It is a matter which will have to be dealt with in a unified way on a statewide basis. It seems to me that this amendment perpetuates an absolute right of removal. All that is required under the first paragraph is simply an affidavit without any proof as to whether the trial would be fair or impartial or not. It is an absolute right of removal which is perpetuated and the last sentence which attempts to provide reasonable regulation would not permit any limitation upon that